

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 28**

February 19, 2021

**SUMMARY OF BILL:** Authorizes municipal electrics, rural electric cooperatives, and telephone cooperatives to provide broadband internet service within distressed counties that are outside the entity's current service area. Requires the Department of Environment and Conservation (TDEC) to make broadband internet service available at all state parks located within distressed counties.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures – \$4,180,000/FY21-22**  
**Exceeds \$40,000/FY22-23 and Subsequent Years**

**Increase Local Revenue – Exceeds \$100,000/FY23-24/Permissive**

**Increase Local Expenditures – Exceeds \$100,000/FY22-23/Permissive**

**Other Fiscal Impact – Due to multiple unknown factors, a precise increase in state revenue from payment of F&E taxes by rural electric cooperatives providing broadband service cannot reasonably be determined.**

Assumptions relative to TDEC impact:

- Pursuant to Tenn. Code Ann. § 67-6-104(b)(3)(B), the following 11 counties have been designated as distressed by the Department of Economic and Community Development for FY20-21: Bledsoe, Clay, Cocke, Grundy, Hancock, Hardeman, Lake, Lauderdale, Perry, Scott, and Wayne.
- The proposed language defines broadband as wireline internet transmission speeds of at least 25 Megabits per second (Mbps) for download and 25 Mbps for upload, or the current definition provided by the Federal Communication Commission (FCC), whichever figure is fastest.
- There are five state parks located within distressed counties. Based on information provided by TDEC, costs for installing broadband at each park vary based on the size and geography of the park. One of the five parks, Fall Creek Falls, currently meets the requirements of this legislation.
- Based on recent upgrades in similar parks and facilities, TDEC estimates the installation of fiber optic cable within the parks will cost of \$30,000 per mile, with the following expenditures required per park:

- Reelfoot Lake: \$1,050,000 (\$30,000 x 35 miles);
- Fort Pillow: \$930,000 (\$30,000 x 31 miles);
- South Cumberland: \$1,590,000 (\$30,000 x 53 miles); and
- Mousetail Landing: \$510,000 (\$30,000 x 17 miles).
- Additional one-time expenditures will occur for the purchase of equipment beyond the fiber optic cable. These will vary park to park; however, the total increase is estimated to be \$100,000.
- It is reasonably assumed that each park's infrastructure will require additional annual maintenance. While the exact costs of such maintenance is unknown, it is reasonably estimated to exceed \$10,000, per park.
- The total one-time increase in state expenditures is estimated to be \$4,180,000 (\$1,050,000 + \$930,000 + \$1,590,000 + \$510,000 + \$100,000), occurring in FY21-22.
- The total increase in state expenditures for ongoing maintenance is estimated to exceed \$40,000 (\$10,000 x 4 parks), beginning in FY22-23 and occurring in subsequent years.

Assumptions relative to local impact:

- Under current law:
  - Tenn. Code Ann. § 7-52-601(a), municipal electric plants are authorized to provide internet within their service area.
  - Tenn. Code Ann. § 65-25-102, rural electric cooperatives are nonprofit entities who are authorized to provide telecommunications and broadband internet access within the cooperative's service area.
  - Tenn. Code Ann. § 65-29-104, telephone cooperatives are nonprofit entities who are authorized to provide communication service to its members.
- The proposed language would authorize these entities to provide broadband service outside of their current service area, if it was provided within a distressed county.
- Under current law:
  - Tenn. Code Ann. § 7-52-603, a municipal electric system is required to maintain its broadband service through revenues collected from providing such service.
  - Tenn. Code Ann. § 65-25-112 rural electric cooperatives distribute revenues for any fiscal year, in excess of the amount necessary to defray the expenses of the cooperative, to the patrons of the cooperative.
  - Tenn. Code Ann. § 65-29-121, telephone cooperatives distribute revenues for any fiscal year, in excess of revenues needed to pay expenses for operating and maintaining facilities, to the members of the cooperative.
- While it is unknown how many municipal electric plants will elect to expand broadband service within a distressed county and the amount of infrastructure costs that will be associated with providing such service, a one-time precise permissive increase in local government expenditures and equal, corresponding permissive increase in local government revenue cannot be determined but is reasonably estimated to exceed \$100,000 statewide.
- Due to the amount of planning and work associated with installing such infrastructure, expenditures are estimated to occur in FY22-23, with revenues occurring after service is established for customers.

- Tennessee Code Annotated § 67-4-2007(a) and § 67-4-2105(a), nonprofit businesses are not responsible for paying franchise and excise (F&E) taxes, except for earning and net worth which is garnered outside of the original scope of business for which nonprofit status was originally granted.
- It is assumed that any rural electric cooperative opting to provide broadband service will be responsible for paying F&E taxes; however due to multiple unknown variables such as how many rural electric cooperatives have opted to provide broadband service, the extent of their earnings and net worth earned from broadband service, any increase in such earnings due to the ability to expand the service area where broadband service is provided; a precise increase in state revenue cannot reasonably be determined.

## **IMPACT TO COMMERCE:**

**Other Fiscal Impact – Due to multiple unknown factors, a precise impact to business revenue and jobs in Tennessee cannot reasonably be determined.**

Assumptions:

- Authorizing municipal electric plants, rural electric cooperatives, and telephone cooperatives to provide broadband coverage outside of their service area will result in a change to business revenues for private companies currently providing broadband services; however it is unknown how many such organizations will opt to expand their service area, when such services will be available to customers, the extent of customers with a new option in broadband service providers, and the extent of any impact to rates charged by private businesses for broadband service as a direct result of the competition provided by electric cooperatives.
- Due to multiple unknown factors a precise impact to business revenue and jobs in Tennessee cannot reasonably be determined.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Bojan Savic, Interim Executive Director

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